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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 JIANJIN ZOU,

10 Plaintiff,

11 v.

12 PETER KEISLER, et al.,

13 Defendants.

CASE NO. C07-1457JLR

ORDER

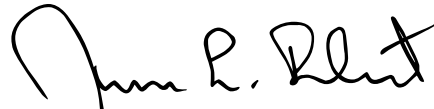
14 This matter comes before the court on Defendants' motion to remand for adjudication
15 (Dkt. # 8) and Plaintiff Jianjin Zou's motion for summary judgment or hearing in the
16 alternative (Dkt. # 6). On October 22, 2007, the court ordered Defendants to show cause why
17 the court should not grant Ms. Zou's naturalization petition (Dkt. # 5). The court has
18 reviewed the Defendants' brief in response to its order to show cause as well as the briefs
19 filed in support of and in opposition to the parties' motions. For the reasons stated below, the
20 court GRANTS Defendants' motion to remand and STAYS this action pending an
21 expeditious resolution by the United States Citizenship and Immigration Services ("USCIS")
22 of Ms. Zou's naturalization petition. The court DENIES without prejudice Ms. Zou's motion
23 for summary judgment.

24 The Immigration and Nationality Act grants the district court jurisdiction to compel
25 agency action on a naturalization petition or to make a ruling on the merits "[i]f there is a

1 failure to make a determination . . . before the end of the 120-day period after the date on
2 which the examination is conducted” 8 U.S.C. § 1447(b). Ms. Zou alleges that she had
3 her citizenship interview on August 10, 2006, and that she passed the English, U.S. history
4 and government tests. She also alleges that USCIS has failed to issue a decision on her
5 naturalization petition within 120 days of her examination. Defendants have moved to
6 remand this case to USCIS for adjudication as Ms. Zou’s background and security checks are
7 now complete. Defendants represent that USCIS is prepared to adjudicate Ms. Zou’s
8 naturalization application after a remand from this court within 60 days of the date Ms. Zou
9 appears for fingerprinting. Defendants state that Ms. Zou’s previous fingerprints have
10 “expired.” Defendants do not cite to any statutory or other authority for the proposition that a
11 fingerprint check must be less than 15 months old at the time USCIS adjudicates an
12 applicant’s petition; rather, they rely on a declaration from Susan Walk, the Senior
13 Adjudications Officer at the Seattle Field Office. *See* Walk Decl. (Dkt. # 8) at ¶ 5.

14 Because Defendants have indicated that USCIS is prepared to adjudicate Ms. Zou’s
15 application, the court GRANTS Defendants’ motion to remand (Dkt. # 8) and STAYS the
16 matter pending a decision on Ms. Zou’s naturalization petition. The court DENIES without
17 prejudice Ms. Zou’s motion for summary judgment (Dkt. # 6). The court REMANDS this
18 case to USCIS with instructions to promptly adjudicate Ms. Zou’s naturalization petition
19 within **forty-five (45) days** of the date Ms. Zou appears to have her fingerprints taken. The
20 fingerprinting fee, if any, is waived. If USCIS does not make a decision on the application
21 within the 45-day period, the parties shall submit a joint status report updating the court on
22 the status of Ms. Zou’s petition and the source of the delay.

1 DATED this 11th day of December, 2007.

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4 JAMES L. ROBART
5 United States District Judge
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